

## **REMARKS/ARGUMENTS**

### **General**

Applicant extends its gratitude to the Office for the telephonic interviews of November 14 and November 30, 2011 in which the instant claims and Whitaker reference were discussed.

### **Claim Amendments**

Applicant has amended independent claim 11 to clarify that the saddle is oscillated between a position where the saddle is in the upright posture perpendicular to the base and a position where the saddle is inclined and angled relative to the base in at least forward left and forward right directions. Support can be found at least in the original claims and figures.

Entry and consideration of the amendments to claim 11 after final is respectfully requested as the instant amendments place the application in condition for allowance and/or in better format for Appeal and/or further limit issues which may be raised on appeal.

Applicant respectfully submits that the amendments to claim 11 were not previously submitted as the issues addressed by the amendments were only raised for the first time in the Final action. Accordingly, Applicant could not have made the requisite claim amendments obviating the issues at an earlier stage in the proceedings. Additionally, the instant claim amendments merely obviate the issues newly raised by the Examiner and do not change the scope of the claims or add new matter which would necessitate further substantial examination and/or search by the Examiner.

Favorable action is respectfully requested.

### **Claim Rejections under 35 USC § 103**

1.) Claims 2 – 7, 11 and 16 stand rejected as allegedly obvious in view of Whitaker (3,463,145) and Hoshino (US 2002/1063231). Applicant respectfully traverses the rejection in as much as it may apply to the claims as amended.

Applicant has amended independent claim 11 to recite that the saddle is oscillated between a position where the saddle is in the upright posture perpendicular to the base and a

position where the saddle is inclined and angled relative to the base in at least forward left and forward right directions.

The Office Action asserts that the chair described by Whitaker is capable of being pivoted in forward left, or forward right directions. That is, page 4 of the Office Action states:

Whitaker in view of Hoshino teaches the invention as substantially claimed, see above, and further teach the saddle is oscillated between a position where the saddle is in the upright posture perpendicular to the base (Whitaker: when the chair is parallel to the ground as shown in figure 3) and a position where the saddle is inclined or angled in a forward left (Whitaker: figure 1) or forward right direction (Whitaker figure 2) as seen in front of the user (Whitaker: from the perspective of a person who is looking at the chair from a side view; similar to that of the perspective as shown in figures 1 or 2). (Emphasis added).

As discussed in the interviews, contrary to the assertion contained in the Office Action, a person having ordinary skill in the art would not reasonably construe the recitation, “in front of the user” as set forth in previous claim 11 as being equivalent to, “from the perspective of a person who is looking at the chair from a side view; similar to that of the perspective as shown in figures 1 or 2 [of Whitaker],” as asserted by the Office. In this regard, “in front of a user” would be properly construed by such individual as meaning “in front of a user sitting in the saddle,” or, relative to a front side of the chair.

Additionally, assuming *arguendo* that, “in front of the user” was construed as being taken “from the perspective of a person who is looking at the chair from a side view; similar to that of the perspective as shown in figures 1 or 2,” then figures 1 and 2 of Whitaker cannot be considered to describe both forward left and forward right movements. That is, from the same such side view, while FIG. 1 of Whitaker could arguably be considered to illustrate forward left movement, FIG. 2, cannot also then be considered to illustrate forward right movement as such movement is clearly rearward.

Notwithstanding the above, Applicant has amended claim 11 to clarify that the saddle is oscillated between a position where the saddle is in the upright posture perpendicular to the base and a position where the saddle is inclined and angled relative to the base in at least forward left and forward right directions, which features are not described or otherwise suggested by either of

Whitaker or Hoshino. Again, Whitaker specifically describes a therapeutic chair that is rotatable forward and rearward (See FIGS. 1 and 2 and Col. 2, lines 30 - 40) and does not describe or suggest that the saddle is inclined and angled relative to the base in at least forward left and forward right directions. Hoshino fails to further describe the claimed inclined and angled forward leftward and forward rightward movement.

Thus, because the combination of Whitaker and Hoshino fails to describe or suggest each and every feature of amended claim 11, and those claims depending therefrom, such claims are nonobvious.

The rejection should be withdrawn.

2.) Claims 8 – 10 and 13 – 14 stand rejected as allegedly obvious in view of Whitaker, Hoshino and Bavaresco (US 6,357,825) or Jamieson (US 608,682).

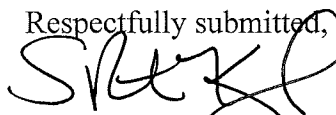
Applicant has discussed the teachings of Whitaker and Hoshino and respectfully submits that Bavaresco and Jamieson fail to further describe or suggest the deficiencies of Whitaker and Hoshino as they relate to claim 11 such that claim 11 is nonobvious in view of Whitaker, Hoshino and Bavaresco or Jamieson. Thus, by virtue of their dependency therefrom, claims 8, 10 and 13 are also nonobvious.

The rejection should be withdrawn.

**CONCLUSION**

In view of the above Applicant respectfully submits that the pending application is in condition for allowance, which action is courteously requested. The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to Deposit Account No. 04-1105.

Dated: December 6, 2011  
Customer No.: 21874

Respectfully submitted,  


Electronic signature: /S. Peter Konz/  
S. Peter Konz

Registration No.: 53,152  
EDWARDS WILDMAN PALMER LLP  
P.O. Box 55874  
Boston, Massachusetts 02205  
(202) 478-7370  
Attorneys/Agents For Applicant